



ANNO QUARTO

ELIZABETHAE II REGINAE

A.D. 1955

No. 54 of 1955

An Act to regulate the sale of agricultural chemicals, to repeal the Fertilisers Act, 1918, and the Pest Destroyers Act, 1919-1935, to amend the Stock Medicines Act, 1939, and for other purposes.

[Assented to 8th December, 1955.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

1. This Act may be cited as the "Agricultural Chemicals Act, 1955". Short title.

2. This Act shall come into operation on a day to be fixed by proclamation. Operation.

3. The following Acts are repealed :—

Repeals.

Fertilisers Act, 1918—No. 1355 of 1918 ;

Pest Destroyers Act, 1919—No. 1377 of 1919 ;

Pest Destroyers Act, 1934—No. 2175 of 1934.

4. (1) In this Act, unless the context otherwise requires, or some other meaning is clearly intended— Interpretation.

"active constituent" means—

(a) any constituent substance of a substance which is effective for any of the purposes mentioned

in the definition of "agricultural chemical" in this subsection of this section ; or

- (b) any constituent substance of a substance which materially influences the effectiveness for any such purpose of any constituent substance mentioned in paragraph (a) of this definition ;

"affixed" includes branded, stamped or printed ;

"agricultural chemical" means—

I. any substance—

(a) commonly used ; or

(b) represented expressly or impliedly by a person selling, offering for sale, exposing for sale or having in his possession for the purpose of sale, the substance, as capable of being used,

for any one or more of the following purposes—

- (i) for preventing, regulating or promoting the growth of any vegetation or any part of any vegetation ;
- (ii) for improving the fertility or structure of soil in any way ;
- (iii) for protecting vegetation or the fruit or other product of any vegetation from attack by insects, animals, fungi, parasitic plants, bacteria or virus ;
- (iv) for destroying rabbits, vermin, rodents or other noxious animals or noxious birds ;

II. any substance declared by the Governor by proclamation to be an agricultural chemical ;

"analyst" means the Government Analyst or any analyst appointed or deemed to have been appointed under this Act ;

"inspector" means an inspector appointed or deemed to have been appointed under this Act ;

"label" includes brand ;

"Minister" means the Minister of Agriculture ;

"package" includes sack, bag, box, case, barrel, bottle, can, drum or other container ;

"specimen copy" includes, in the case of a brand, a description.

(2) The Governor may by proclamation from time to time declare any substance to be an agricultural chemical.

(3) The Governor may by proclamation declare that any specified provisions of this Act shall not apply to any substance, or shall apply to a substance only when sold, offered for sale, exposed for sale or kept for the purpose of sale in any specified circumstances or quantities or in any part of the State.

(4) The Governor may by proclamation revoke or vary any proclamation made under subsection (2) or subsection (3) of this section.

5. (1) The Governor may, for the purposes of this Act, appoint any fit and proper person to be an inspector or analyst under this Act. Inspectors and analysts.

(2) Every person holding office at the commencement of this Act as an inspector or analyst under the Fertilisers Act, 1918, or the Pest Destroyers Act, 1919-1935, shall be deemed to have been appointed as an inspector or analyst, as the case may be, under this Act.

6. For the purposes of this Act, a label shall be deemed to be a copy of a registered label if it states particulars identical in all material respects with those stated in a label registered under this Act. Copy of registered label.

7. For the purposes of this Act, a substance shall be deemed not to comply with particulars only where— When a substance deemed not to comply with particulars.

- (a) the quantity of any claimed active constituent contained in the substance is greater or less than the quantity indicated in the particulars by more than the prescribed proportion applicable in the particular case ; or
- (b) the constituent substances are not properly mixed ; or
- (c) the substance is deemed not to comply with the particulars by virtue of regulations.

8. A person shall not sell, offer for sale, expose for sale or have in his possession for the purpose of sale any agricultural chemical except in a package having affixed thereto a copy of a registered label. Agricultural chemical to be sold in labelled packages.

Penalty : One hundred pounds.

Substance not
complying with
particulars.

9. (1) A person shall not sell, offer for sale, expose for sale or have in his possession for the purpose of sale any substance in a package having affixed thereto a copy of a registered label if in any respect the substance does not comply with the particulars stated in such copy or the registered additional particulars.

Penalty : One hundred pounds.

(2) In proceedings for an offence against subsection (1) of this section, it shall be a defence that—

- (a) the substance was contained in the package and the copy of the registered label was affixed thereto at the time the defendant acquired the substance ; and
- (b) the defendant believed on reasonable grounds that the substance complied in every respect with the particulars.

False or
misleading
description, etc.

10. (1) A person who in the course of his business—

- (a) sells an agricultural chemical ; and
- (b) directly or indirectly by any means whatsoever gives any description of, or makes any statement with respect to, the agricultural chemical which is false or misleading in a material particular,

shall be guilty of an offence.

Penalty : Fifty pounds.

(2) In proceedings for an offence against subsection (1) of this section, it shall be a defence that the defendant believed on reasonable grounds that the description or statement was not so false or misleading.

Standards.

11. (1) A person shall not sell, offer for sale, expose for sale or have in his possession for the purpose of sale an agricultural chemical which does not comply with the prescribed standard applicable to that agricultural chemical.

Penalty : Fifty pounds.

(2) In proceedings for an offence against subsection (1) of this section, it shall be a defence that—

- (a) at the time the offence is alleged to have been committed, the agricultural chemical was contained in a package ; and

- (b) the agricultural chemical was contained in the package at the time the defendant acquired the agricultural chemical ; and
- (c) the defendant believed on reasonable grounds that the agricultural chemical complied with the prescribed standard.

12. (1) An application for registration of a label and additional particulars under this Act shall be made to the Minister in the prescribed form and shall be accompanied by a specimen copy of the label.

Application
for registration
of a label and
additional
particulars.

(2) Subject to this section and section 13 of this Act, the specimen copy of the label shall state the following particulars:—

- (a) the distinctive name of the substance intended to be sold under the label ;
- (b) the place of manufacture and the name of the manufacturer of the substance ;
- (c) the net weights or volumes of the substance intended to be contained in the packages to which the label is intended to be affixed ;
- (d) the constituent substances of the substance which the applicant claims to be active constituents of the substance, and the proportions thereof, described in compliance with the regulations and such directions as may be given either generally or specially by the Minister ;
- (e) subject to the regulations, the purposes for which the applicant claims or intends the substance may be used ;
- (f) subject to the regulations, directions for use of the substance ; and
- (g) such other particulars as may be prescribed.

(3) The proportion of any claimed active constituent shall not be expressed in the label as a variable quantity.

(4) The application shall state the following additional particulars :—

- (a) the substances of which the substance is composed and the proportions thereof, described in compliance with the regulations and such directions as may be given either generally or specially by the Minister ; and

(b) such other particulars as may be prescribed.

(5) Subject to this subsection, the label or additional particulars may indicate any particular by an abbreviation or symbol if—

(a) a definition of the abbreviation or symbol is given in the application ; and

(b) the abbreviation or symbol complies with such directions as may be given either specially or generally by the Minister.

For the purposes of this Act, an abbreviation or symbol shall with respect to the label or additional particulars bear the meaning so ascribed to it.

A definition of an abbreviation or symbol shall not be required where the abbreviation or symbol is an abbreviation or symbol used in the ordinary course of chemistry.

(6) The application shall state the address of a place in the State where samples of the substance intended to be sold under the label may if the label and additional particulars are registered be purchased or otherwise obtained from the applicant.

(7) The application shall be accompanied in addition to the specimen copy of the label by—

(a) subject to subsection (8) of this section, a statutory declaration by the applicant or in the case of a corporation, an officer thereof, verifying the particulars contained in the application and in the specimen copy of the label ; and

(b) a fee of five shillings.

(8) The particulars of composition stated in the specimen copy of the label and in the additional particulars may be verified by a statutory declaration by the manufacturer or some person on behalf of the manufacturer.

Non-inclusion
of active
constituents
in label.

13. (1) The applicant may insert in the specimen copy of a label the words "Particulars of active constituents registered pursuant to section 13 of the Agricultural Chemicals Act, 1955", with or without particulars of any constituent substance which he claims to be an active constituent of the substance, in place of the particulars required under paragraph (d) of subsection (2) of section 12 of this Act, and state those particulars in the application as additional particulars.

(2) The Minister shall not deal with such an application unless he is first satisfied that, if the applicant were compelled to disclose those particulars in the label, a secret process or formula used or intended to be used by any person might be disclosed and that some person would thereby suffer loss.

(3) Before refusing to deal with the application, the Minister shall give the applicant an opportunity to be heard in support of his application.

14. (1) Subject to the provisions of this Act, on the making of an application for the registration of a label and additional particulars in accordance with the provisions of this Act, the Minister shall register the label together with the additional particulars unless he is satisfied that— Registration.

- (a) the substance intended to be sold under the label is substantially ineffective for any purpose mentioned therein or in the additional particulars as a purpose for which the applicant claims or intends the substance may be used ;
- (b) if the substance is used for any such purpose, there may be a substantial risk of injury to the health of members of the public ;
- (c) the distinctive name of the substance is misleading ;
- (d) any statement in the application or in the label is false or misleading in a material particular ;
- (e) in any respect the substance does not comply with the particulars stated in the label or the additional particulars ;
- (f) a standard having been prescribed which applies to the substance, the substance does not comply with the standard ; or
- (g) a constituent substance which is not claimed as an active constituent ought to be so claimed.

(2) The Minister shall not register a label unless he is satisfied that, if the substance were sold under the label, it would not be sold in contravention of The Poison Regulations.

(3) Before refusing to register a label and additional particulars pursuant to subsection (1) or subsection (2) of this section, the Minister shall give the applicant an opportunity to be heard in support of his application.

Registration of
one label for
various sized
packages.

15. Where more than one net weight or volume is mentioned in the label pursuant to paragraph (c) of subsection (2) of section 12 of this Act, and the label is registered, a separate label shall be deemed to be registered in respect of each net weight or volume.

Certificate of
registration.

16. The Minister shall on registering a label and additional particulars issue a certificate of registration to the applicant.

Duration of
registration.

17. The registration of a label and additional particulars shall unless sooner cancelled continue in force until the thirtieth day of June following the day of the registration of the label and additional particulars, but may be renewed for a further period expiring on the thirtieth day of June next following the day upon which the registration is renewed and so on from time to time.

Renewal of
registration.

18. (1) Subject to subsection (2) of this section, an application for renewal of registration shall be made and dealt with in the same manner as an application for registration.

(2) Where the applicant for renewal of registration does not desire to alter the registered label or the registered additional particulars—

(a) it shall not be necessary for a specimen copy of the label to accompany the application; and

(b) if the application is made before the thirty-first day of May preceding the day of expiry of the registration, a fee of one shilling only need accompany the application.

Alteration of
registered
label or
registered
additional
particulars.

19. (1) A person who has obtained the registration of a label and additional particulars may apply to the Minister to alter the registered label or the registered additional particulars.

(2) The application shall be accompanied by a fee of five shillings.

(3) The Minister shall deal with the application in the same way as if the application were for registration of the registered label and registered additional particulars so altered.

20. The Minister may before deciding any application under this Act request the applicant to supply— Sample and analysis.

- (a) a sample of the substance intended to be sold under the label, of such size and taken in such manner as the Minister shall require ;
- (b) such details of the composition or manufacture of the substance as the Minister shall require.

21. The Minister may before deciding any application under this Act refer any matter arising out of the application to the Central Board of Health for the report of the Central Board of Health. Reference of matters to Central Board of Health.

22. (1) The Minister shall keep a register in the prescribed form of labels and additional particulars registered under this Act. Register.

(2) Any member of the public shall be entitled to inspect any registered label.

(3) A member of the public shall not be entitled to inspect any registered additional particulars except with the consent of the Minister.

23. (1) Subject to this section, the Minister may cancel the registration of a label and additional particulars by notice in writing given to the person who obtained the registration of the label and additional particulars— Cancellation of registration.

(a) if the Minister is satisfied that—

- (i) the person has sold, offered for sale, or exposed for sale or had in his possession for the purpose of sale any substance contained in a package having a copy of the registered label affixed thereto ; and
- (ii) in any respect the substance did not comply with the particulars stated in the copy of registered label or the registered additional particulars ; or

(b) if the person is convicted of an offence against this Act with respect to or in connection with the registered label or registered additional particulars or the substance intended to be sold under the registered label.

(2) The Minister shall publish notice of the cancellation in the *Gazette*.

(3) Before cancelling the registration, the Minister shall give the person an opportunity to show cause why the registration should not be cancelled.

Entry of
premises and
taking of
samples.

24. An inspector may at any time enter on any land where any agricultural chemical is or may reasonably be supposed to be manufactured, compounded, packed, sold, offered for sale, exposed for sale or kept for the purpose of sale and may do any one or more of the following things, namely :—

- (a) examine and purchase or take without payment therefor as a sample for analysis, a quantity of any agricultural chemical or any constituent substance of an agricultural chemical found on the land or substance found thereon which appears to him to be an agricultural chemical or a constituent substance of an agricultural chemical ;
- (b) examine any process of manufacture or compounding which is being carried out on the land ;
- (c) do any act or thing required or permitted by regulation to be done in connection with or for the purpose of anything authorized by this section or the analysis of samples taken under this section.

The inspector may be accompanied by any person authorized in writing in that behalf either generally or specially by the Minister.

Procedure on
taking samples.

25. (1) The inspector purchasing or taking a sample of any substance under section 24 of this Act shall—

- (a) thoroughly mix the sample and divide it into three approximately equal parts ;
- (b) place each part in a separate package and fasten or seal each such package ;
- (c) attach a label to each such package—
 - (i) stating his name ;
 - (ii) stating so far as is known to him the name of the seller or person who appears to him to have the custody of the substance ;

- (iii) stating so far as is known to him, the name of the substance ;
- (iv) stating the time and place of purchasing or taking the sample ; and
- (v) if possible signed by the seller or person who appears to him to have the custody of the substance ;

(d) deliver one of the labelled packages to the seller or person who appears to him to have the custody of the substance ; and

(e) retain another labelled package for future comparison, and, if he thinks fit, send or deliver the remaining labelled package to an analyst for analysis of the contents.

(2) Where the substance is found on the land entered in packages containing not more than two pounds avoirdupois net weight thereof, it shall be sufficient compliance with subsection (1) of this section if three unopened packages are dealt with in the manner provided in paragraphs (c) (d) and (e) of subsection (1) of this section.

26. (1) Any person who has bought any agricultural chemical shall, subject to this section, be entitled to have a sample of the agricultural chemical so bought analysed by an analyst.

Right of buyer
to analysis.

(2) Any person intending to submit a sample for analysis under this section shall within three months after delivery of the agricultural chemical to him give notice in writing by post to the seller or his agent of his intention and of the day (not being earlier than fourteen days from the day the notice is posted), time and place when the sample will be taken.

(3) The buyer shall on the day and at the place and time mentioned in the notice in the presence of a justice of the peace or member of the police force and of the seller or the agent or other representative of the seller, if the seller or his agent or other representative desires to be present—

- (a) take a sample of the agricultural chemical in the prescribed manner (if any) ;
- (b) thoroughly mix the sample and divide it into three approximately equal parts ;
- (c) place each such part in a separate package and fasten or seal each such package ;

(d) attach a label to each such package—

- (i) stating the name of the buyer ;
- (ii) stating so far as is known to the buyer, the name of the seller ;
- (iii) stating so far as is known to the buyer, the name of the agricultural chemical ;
- (iv) stating the time and the place of the taking of the sample ; and
- (v) if possible signed by the seller, or his agent or representative ;

and

(e) if requested to do so by the seller or his agent or representative, deliver one of the labelled packages to the seller or his agent or representative.

(4) The buyer shall send or deliver two of the labelled packages to the Minister together with the prescribed fee for analysis.

(5) The Minister shall retain one of the packages delivered to him for future comparison and shall send or deliver the other package to an analyst who shall, with all convenient speed, analyse the contents thereof and deliver a certificate in duplicate to the Minister stating the result of his analysis.

(6) Subject to subsection (7) of this section, the Minister shall forthwith forward one of the certificates to the buyer.

(7) Where the agricultural chemical was at the time it was purchased contained in a package having affixed thereto a copy of a label registered pursuant to an application made under section 13 of this Act, the Minister shall forward, in lieu of the certificate, a statement indicating the result of the analysis, but not containing any matter which might disclose, or lead to the disclosure of, the secret process or formula.

Publication of
result of
analysis.

27. (1) The Minister may, subject to subsection (2) of this section, publish in the *Journal of the Department of Agriculture of South Australia*, or in any newspaper, or in such other manner as he thinks fit, the result of the analysis by an analyst of any sample or part thereof of any substance purchased or taken under this Act, together with—

- (a) the name and address of the place of business of the seller or person who appeared to have the custody of the substance when the sample was taken ;

(b) if the sample or any part thereof was contained at the time it was purchased or taken in a package having a copy of a registered label affixed thereto, the name and address of the place of business of the person who obtained the registration of the label ; and

(c) such explanations and comments on the result of the analysis as the Minister thinks fit.

(2) Where the substance was at the time the sample was purchased or taken contained, or, in the opinion of the Minister, proposed to be placed, in a package having affixed thereto a copy of a label registered pursuant to an application made under section 13 of this Act, the Minister shall not publish any matter pursuant to subsection (1) of this section with respect to that substance which might disclose, or lead to the disclosure of, the secret process or formula.

28. In proceedings for an offence against this Act, evidence of the analysis of any substance shall not be admissible on behalf of the complainant unless the complainant proves that the analysis was of a sample or part of a sample purchased or taken and dealt with substantially in accordance with this Act.

Evidence of analysis.

29. On the conviction of any person for an offence against this Act by means of evidence of the analysis of any sample or part of any sample purchased or taken under this Act, the court may order that the person pay to the complainant such amount as the court thinks fit as the costs of and incidental to the obtaining of the analysis.

Payment of costs of analysis.

30. Any person who prevents, delays, obstructs or hinders the Minister or any inspector or analyst from or in the execution of his powers and duties under this Act shall be guilty of an offence.

Obstructing Minister, inspector or analyst.

Penalty : Twenty pounds.

31. The Minister shall take all reasonable steps to ensure that information as to the composition of any substance supplied to him under this Act is not unnecessarily disclosed to members of the public.

Information not to be disclosed.

32. (1) The Governor may make regulations prescribing any matter or thing required or permitted to be prescribed or necessary or expedient to be prescribed for carrying this Act into effect and without limiting the generality of the foregoing, for or with respect to—

Regulations.

- (a) prescribing forms to be used in connection with anything done under this Act ;
- (b) prescribing fees to be paid for anything done under this Act, either in addition to or in substitution for any fees fixed by this Act ;
- (c) regulating and fixing standards for agricultural chemicals and the composition thereof ;
- (d) prescribing methods of analysis and taking of samples, including grab samples, for the purposes of this Act, and the method of dealing with grab samples ;
- (e) regulating the labelling of packages containing agricultural chemicals, and, in particular, requiring packages containing agricultural chemicals to be labelled with brands in specified circumstances ;
- (f) providing that the particulars required to be stated in a specimen copy of a label under paragraphs (e) and (f) of subsection (2) of section 12 of this Act may be stated in the application as additional particulars ;
- (g) prescribing penalties for offences against regulations, not exceeding in any case the sum of fifty pounds.

(2) Regulations may be made under subsection (1) of this section with respect to agricultural chemicals generally, or specified agricultural chemicals or specified classes of agricultural chemicals.

(3) Regulations made under subsection (1) of this section for the purposes of paragraph (a) of section 7 of this Act may prescribe varying proportions for different substances and circumstances, and, in particular and without limiting the generality of the foregoing, may prescribe varying proportions where grab samples are taken.

Who may
prosecute.

33. A complaint for an offence against this Act may be made by the person aggrieved, by an inspector, or by any person authorized in that behalf by the Minister.

Limitation of
time for laying
complaints.

34. A complaint for an offence against this Act shall be made within twelve months of the time when the matter of the complaint arises.

Summary
proceedings.

35. All proceedings in respect of offences against this Act shall be disposed of summarily.

36. In proceedings for an offence against section 8 of this Act, it shall be a defence— Temporary provisions.

(1) that—

- (a) at the time the offence is alleged to have been committed the agricultural chemical, being a pest destroyer registered under the Pest Destroyers Act, 1919-1935, at the commencement of this Act, was contained in a package labelled in a manner complying with the provisions of that Act; and
- (b) the agricultural chemical was placed in the package and the label affixed thereto on or before the thirtieth day of June next following the commencement of this Act; and
- (c) the defendant had otherwise with respect to the agricultural chemical complied with the provisions of the Pest Destroyers Act, 1919-1935;

(2) that—

- (a) at the time the offence is alleged to have been committed the agricultural chemical, being a fertiliser licensed under the Fertilisers Act, 1918, at the commencement of this Act, was contained in a package branded, stamped, or marked in a manner complying with the provisions of that Act; and
- (b) the agricultural chemical was placed in the package and the package branded, stamped or marked on or before the thirty-first day of January next following the commencement of this Act; and
- (c) the defendant had otherwise with respect to the agricultural chemical complied with the provisions of the Fertilisers Act, 1918;

(3) that—

- (a) at the time the offence is alleged to have been committed the agricultural chemical, not being a pest destroyer or fertiliser as mentioned in paragraph (1) or (2) of this section, was contained in a package; and
- (b) the agricultural chemical was placed in the package before the expiration of three months after the commencement of this Act.

Amendment of
Stock
Medicines Act,
1939, s. 3—
Interpretation.

37. Section 3 of the Stock Medicines Act, 1939, is amended—

(a) by inserting at the end of paragraph (b) in the definition of “stock medicine” therein the words “or (c) preventing insects or other pests from attacking such stock;”

(b) by striking out paragraph (ii) in the definition of “stock medicine” therein and inserting in its place the following paragraph :—

(ii) any agricultural chemical within the meaning of the Agricultural Chemicals Act, 1955.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

R. A. GEORGE, Governor.